

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7591 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

M B MASARIA

Versus

STATE OF GUJARAT

Appearance:

MR DR BHATT for Petitioner

MR HH PATEL ADVOCATES for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 19/08/1999

ORAL JUDGEMENT

#. Heard the learned counsel for the petitioner.

#. The petitioner, a District & Sessions Judge, Sabarkantha, Himmatnagar, filed this writ petition before this Court under Article 226 of the Constitution of India and prayed for directions to the respondent No.1 to sanction and reimburse full amount of bill of Rs.97,464/= instead of Rs.50,000/= sanctioned vide Notification dated 29.8.98. It has further been prayed for directions to the respondents to consider the case of the petitioner for grant of reimbursement of actual medical treatment

charges of Rs.97,464/=. As Rs.50,000/= have been paid to the petitioner, prayer has been made for directions to the respondent No.1 to pay Rs.47,464/= more to the petitioner towards medical reimbursement.

#. It is not in dispute that the petitioner had undergone Angioplasty surgery conducted by Dr. Tejas Patel at the Rajasthan Hospital, Ahmedabad. The petitioner incurred expenses of Rs.97,464/= towards the cost of this operation. It is true that the petitioner could not get prior permission of the Government to undergo this operation at Rajasthan Hospital but it is an emergent case and in case this course would not have been undertaken by petitioner, there would have been all chances of seriousness of the petitioner and it would have resulted in casualty also. However, during the course of arguments, the learned counsel for the respondents fairly submitted that as per the Government Resolution, the petitioner would have been entitled for Rs.70,000/- as reimbursement of this angioplasty operation. So the dispute is only of Rs.27,464/=. The learned counsel for the petitioner made manifold contentions and tried to pursue this Court that these are the matters relating to life of the employees for which nobody can take any risk either for getting permission of the Government to undergo this operation at some renowned hospital or to go for surgery at a hospital where he does not like to go. It is a matter of confidence, faith and belief in a surgeon who had to operate the patient concerned. Not only this, some of the hospitals in the country have their name in the speciality concerned and naturally, as it is a case of life of human being, the patient will like to go to the expert person. It is true that the Government Resolution provides for prior permission before a Government employee or an officer has to go for Angioplasty operation or for some other operations at private hospitals but in case where there is an emergency and he has to go for that operation immediately, post-facto permission can also be granted. The Government has to satisfy that the bill raised by petitioner for medical reimbursement is the bill of operation package which the petitioner has undergone. It is also equally permissible to the Government to see and examine that inflated bills are not submitted. The petitioner has been operated in the year 1998 and if we go by this package, i.e. the bill of expenses of Angioplasty of the petitioner at Rajasthan hospital, it may not be an exaggerated or inflated amount. I do not consider it to be necessary in this case to decide the larger issue that whatever the bill raised by the officer of the Government has to be

reimbursed where there is no doubt that operation is undergone as well as inflation of the bill. Similarly, I do not consider it to be necessary in this case to decide the larger issue that it should have been the choice of the patient, an officer of the Government where he has to get himself operated for such major operation. It is a case where the dispute is only of Rs.27,464/=.

#. The Special Civil Application is disposed of with directions to the respondent No.2 to consider the case of the petitioner for grant of post-facto permission to undergo Angioplasty operation at Rajasthan hospital. In case the post-facto permission is granted for this operation, then whatever the deficit of amount of bill raised for medical expenses has to be made good to him. This exercise has to be undertaken within a period of one month from the date of receipt of Writ of this order. In case the post-facto permission is granted, the balance of the amount of bill of petitioner be paid to him within fifteen days next. Where the Government considers that in the facts of the case, the post-facto permission to undergo Angioplasty operation by the petitioner at Rajasthan hospital cannot be granted, then special sanction be granted for the balance of bill amount of Rs.47,464/= and this amount be paid to the petitioner forthwith. It is really shocking that a judicial officer of the rank of District Judge who has undergone Angioplasty surgery, and who submitted bill of expenses of his operation, has not been cleared for more than one year and six months. It is really shocking that an officer of this rank has been forced by respondents to approach this Court by filing this Special Civil Application. This is not the case where some false bill has been submitted or could have been submitted. The Government has to consider all these aspects in correct perspective. Substance of the matter has to be taken and not the technical approach, more so, where a judicial officer is submitting bill for reimbursement of medical expenses of undergoing Angioplasty operation.

#. The Special Civil Application and Rule stand disposed of in aforesaid terms, however, with no order as to costs.

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